IN THE HIGH COURT OF UTTARANCHAL

AT NAINITAL

Criminal Misc. Application No. 158 of 2005

Vinod Kumar
S/o Shri Kashmir Singh
R/o Village & Post Malhandi
Police Station Gathi Pukhta
District – Muzaffar Nagar (U.P.) …Applicant

Versus

1. Sessions Judge
Rudraprayag

2. Pushkar Singh Jagwan
S/o Shri Ghanshyam Singh
R/o Village Bhatwadi Sain
Out post Agastmuni
Police Station – Ukhimath
District – Rudraprayag …Respondents

Sri R.P. Nautiyal, learned counsel for applicant.

Hon'ble B.C. Kandpal, J.

This petition has been filed by the petitioner u/s 482 Cr.P.C. for quashing the order dated 16.03.2005 passed by Sessions Judge, Rudraprayag by which the learned Judge has rejected the application moved by the petitioner praying therein to provide an opportunity for cross examining the prosecution witness.

Learned Session Judge vide impugned order rejected the application and fixed the case for rest of the prosecution evidence.

Heard learned counsel for the petitioner, learned A.G.A. and perused the record.

I am of the opinion that the case is under section 363, 366 and 376 I.P.C. and in case if the petitioner does not get opportunity for cross examining the witness, his right would be put in jeopardy.

In the interest of the justice, the petitioner should avail an opportunity for cross examining the witness, whose evidence has been closed.

I, therefore, direct that the petitioner shall positively cross examine witness on the date fixed, i.e. 30.03.2005 and shall not seek any adjournment on the date fixed. The prosecution shall also ensure to produce this witness on the date fixed and no adjournment from either side should be granted on the date fixed.

On the aforesaid observation, the writ petition is finally disposed of.

B.C. Kandpal, J.

21st March, 2005
Shiv